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Security Council

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The Security Council,

Recalling its previous resolutions concerning the situation in Somalia, especially resolutions 1918 (2010) and 1976 (2011),

Continuing to be gravely concerned by the growing threat that piracy and armed robbery at sea against vessels off the coast of Somalia pose to the situation in Somalia, States in the region and other States, as well as to international navigation, the safety of commercial maritime routes and the safety of seafarers and other persons, and also gravely concerned by the increased level of violence employed by pirates and persons involved in armed robbery at sea off the coast of Somalia,

Emphasizing the importance of finding a comprehensive solution to the problem of piracy and armed robbery at sea off the coast of Somalia,

Stressing the need to build Somalia's potential for sustainable economic growth as a means to tackle the underlying causes of piracy, including poverty, thus contributing to a durable eradication of piracy and armed robbery at sea off the coast of Somalia and illegal activities connected therewith,

Reaffirming its respect for the sovereignty, territorial integrity, political independence and unity of Somalia,

Reaffirming that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982 (Convention), in particular its articles 100, 101 and 105, sets out the legal framework applicable to combating piracy and armed robbery at sea, as well as other ocean activities,

Further reaffirming that the provisions of this resolution apply only with respect to the situation in Somalia and do not affect the rights and obligations or responsibilities of Member States under international law,

Bearing in mind the Djibouti Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden, and *recognizing* the commitment of signatory States to review their national legislation with a view to ensuring that national laws to criminalize piracy and armed robbery against ships, and adequate guidelines for the exercise of jurisdiction, conduct of investigations, and prosecutions of alleged offenders, are in place,

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Commending those States that have amended their domestic law in order to criminalize piracy and facilitate the prosecution of suspected pirates in their national courts, consistent with applicable international law, including human rights law, and *stressing* the need for States to continue their efforts in this regard,

Noting with concern at the same time that the domestic law of a number of States lacks provisions criminalizing piracy and/or procedural provisions for effective criminal prosecution of suspected pirates,

Reaffirming the importance of national prosecution of suspected pirates for combating piracy off the coast of Somalia,

Strongly condemning the continuing practice of hostage-taking by suspected pirates operating off the coast of Somalia, *expressing serious concern* at the inhuman conditions hostage face in captivity, *recognizing* the adverse impact on their families, *calling for* the immediate release of all hostages, and *noting* the importance of cooperation between Member States on the issue of hostage-taking and the need for the prosecution of suspected pirates for taking hostages,

Recognizing that despite the efforts to date by States to prosecute suspected pirates at the national level, the ongoing work in this regard is still insufficient and that more must be done to ensure that suspected pirates are effectively brought to justice,

Reiterating its concern over a large number of persons suspected of piracy having to be released without facing justice, *reaffirming* that the failure to prosecute persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia undermines anti-piracy efforts of the international community and *being determined* to create conditions to ensure that pirates are held accountable,

Noting with interest the conclusion in the Secretary-General's report on the modalities for the establishment of specialized Somali anti-piracy courts (S/2011/360) that, assuming that sufficient international assistance is provided, piracy trials being conducted by courts in Somaliland and Puntland are expected to reach international standards in about three years, and *expressing its hope* consistent with the mentioned Secretary-General's report that this timeline will be accelerated if suitable experts, including those from the Somali diaspora, can be identified and recruited,

Welcoming the consultations between the United Nations and regional States, including the Seychelles, Mauritius, and Tanzania, and the willingness expressed by Tanzania to assist the international community, under the right conditions, to prosecute suspected pirates in its territory,

Determining that the incidents of piracy and armed robbery at sea off the coast of Somalia exacerbate the situation in Somalia, which continues to constitute a threat to international peace and security in the region,

1. *Reaffirms* that the ultimate goal of enhancing Somali responsibility and active involvement in efforts to prosecute suspected pirates, as emphasized by the Secretary-General's Special Adviser on Legal Issues Related to Piracy off the Coast of Somalia in his report transmitted to the Security Council on 19 January 2011 (S/2011/30), remains highly relevant in the overall context of fighting piracy;

2. *Recognizes* the primary role of the Transitional Federal Government (TFG) and the relevant Somali regional authorities in eradicating piracy off the coast of Somalia;

3. *Welcomes in this regard* that the Somalia end of transition road map of 6 September 2011 includes developing counter-piracy policy and legislation in conjunction with regional entities as a key task of the Transitional Federal Institutions (TFI), and *notes* that the Security Council has made its future support to the TFI contingent upon the completion of the tasks contained in the road map;

4. *Notes with appreciation* the report of the Secretary-General on the modalities for the establishment of specialized Somali anti-piracy courts (S/2011/360) prepared pursuant to paragraph 26 of resolution 1976 (2011);

5. *Reiterates* its call upon all States, and in particular flag, port, and coastal States, States of the nationality of victims, as well as of perpetrators of piracy and armed robbery, and other States with relevant jurisdiction under international law and national legislation, to cooperate in determining jurisdiction, and in the investigation and prosecution of all persons responsible for acts of piracy and armed robbery off the coast of Somalia, including anyone who incites or facilitates an act of piracy, consistent with applicable international law including human rights law;

6. *Calls upon* States to cooperate also, as appropriate, on the prosecution of suspected pirates for taking hostages;

7. *Reiterates* its request, as a matter of urgency, to the TFG and relevant Somali regional authorities to elaborate, with the assistance of UNODC and UNDP, and adopt a complete set of counter-piracy laws, including laws to prosecute those who illicitly finance, plan, organize, facilitate or profit from pirate attacks, with a view to ensuring the effective prosecution of suspected pirates and those associated with piracy attacks in Somalia, the post-conviction transfer of pirates prosecuted elsewhere to Somalia, and the imprisonment of convicted pirates in Somalia, as soon as possible, and *strongly urges* the TFG and regional authorities of Somalia to expeditiously address any other existing obstacles that impede progress in this regard, and *requests* the TFG and relevant regional authorities of Somalia to provide a report to the Security Council by 31 December 2011 on action taken in each of the areas above;

8. *Calls upon* UNODC, UNDP and other international partners to further their efforts to support the development of domestic legislation, agreements and mechanisms that would allow the effective prosecution of suspected pirates, and the transfer and imprisonment of convicted pirates;

9. *Strongly urges* States that have not already done so to criminalize piracy under their domestic law, and *reiterates* its call on States to favourably consider the prosecution of suspected, and imprisonment of convicted, pirates apprehended off the coast of Somalia, consistent with applicable international law including international human rights law;

10. *Urges* States and international organizations to share evidence and information for anti-piracy law enforcement purposes with a view to ensuring effective prosecution of suspected, and imprisonment of convicted, pirates;

11. *Calls upon* all Member States to report, no later than 31 December 2011, to the Secretary-General on measures they have taken to criminalize piracy under their domestic law and to prosecute and support the prosecution of individuals suspected of piracy off the coast of Somalia and imprisonment of convicted pirates,

and *requests* the Secretary-General to compile this information and to circulate this compilation as a document of the Security Council;

12. *Commends* the ongoing work of UNODC and UNDP, as described in the Secretary-General's report, in supporting counter-piracy trials and increased prison capacity in Somalia, consistent with the recommendation of the Secretary-General's Special Adviser on Legal Issues Related to Piracy of the Coast of Somalia;

13. *Reaffirms* that the efforts to promote effective judicial mechanisms to prosecute suspected pirates should be continued and intensified;

14. *Welcomes* the undertaking of the Secretary-General, in connection with his report (S/2011/360) to further proactively assist, at the request of the Security Council, in the taking of appropriate next steps aimed at further enhancing counter-piracy prosecution efforts;

15. *Requests* States and regional organizations to consider possible ways to seek and allow for the effective contribution of the Somali diaspora to anti-piracy efforts, in particular in the area of prosecution, as advised in the Secretary-General's report (S/2011/360);

16. *Decides* to continue its consideration, as a matter of urgency, without prejudice to any further steps to ensure that pirates are held accountable, of the establishment of specialized anti-piracy courts in Somalia and other States in the region with substantial international participation and/or support, and *requests* that the Secretary-General, in conjunction with UNODC and UNDP, further consult with Somalia and regional States willing to establish such anti-piracy courts on the kind of international assistance, including the provision of international personnel, that would be required to help make such courts operational; the procedural arrangements required for transfer of apprehended pirates and related evidence; the projected case capacity of such courts; and the projected timeline and costs for such courts, and to provide to the Council in the light of such consultations within 90 days detailed implementation proposals for the establishment of such courts, as appropriate;

17. *Underlines* the importance for such courts to have jurisdiction to be exercised over not only suspects captured at sea, but also anyone who incites or intentionally facilitates piracy operations, including key figures of criminal networks involved in piracy who illicitly plan, organize, facilitate, or finance and profit from such attacks;

18. *Recognizes* that any increase in prosecution capacity must necessarily be accompanied by a related increase in prison capacity, and *calls upon* both Somali authorities, UNODC, UNDP and other international partners to support the construction and responsible operation of prisons in Somalia in accordance with international law;

19. *Calls upon* Member States, regional organizations and other appropriate partners to support efforts to establish specialized anti-piracy courts in the region by making or facilitating arrangements for the provision of international experts, including those from the Somali diaspora, through secondment or otherwise, and to otherwise support the work of UNODC, UNDP or others in this regard through contributions to the Trust Fund;

20. *Decides* to remain seized of the matter.